



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

June 22, 2005

James C. Morriss III
Thompson & Knight LLP **CERTIFIED MAIL RECEIPT #70010360000366765305**
1900 San Jacinto Center
98 San Jacinto Boulevard
Austin, Texas 78701-4081

RE: Gulfco Marine Maintenance Superfund Site in Freeport Texas

Dear Mr. Morriss:

I am responding to your June 21, 2005, letter providing a proposed "work plan" to the Environmental Protection Agency (EPA) for the Gulfco Marine Maintenance Superfund Site (Gulfco Site) as promised on June 17, 2005.

I felt we had very productive discussions with you and the PRP Group on June 17, 2005, concerning the Gulfco Site. The point of this meeting was to repeat EPA's request to obtain an acceptable commitment that the PRP group would complete an investigation of the site and complete necessary response actions pursuant to the NCP. EPA has repeated this request several times over the past few months. We have performed a cursory review of your latest submittal and would like to offer the following:

- 1) During the June 17 call, you requested that we start work on the Administrative Order on Consent (AOC). EPA has repeatedly stated that the first step to approaching cleanup at the Gulfco Site is to develop a Work Plan. This is the biggest hurdle in developing a cleanup plan for the Gulfco Site. Once the Work Plan is agreed to, an AOC can be tailored to create the mutually acceptable mechanism for the implementation of the cleanup. I agreed to discuss your request internally. The draft AOC was provided on Friday June 17, 2005.
- 2) You have continually mentioned that the Regional Administrator agreed to allow you to use the Texas Risk Reduction Rules (TRRP) and the Texas Voluntary Cleanup Program (VCP). The Regional Administrator agreed that we should pursue your proposal. The Regional Administrator provided four conditions to be met that have not been addressed to our satisfaction:
 - a) EPA oversight of the investigation and clean up;
 - b) appropriate public participation;
 - c) A mechanism to assure that all appropriate response actions are completed; and
 - d) Assurance that the response is consistent with other NPL sites.

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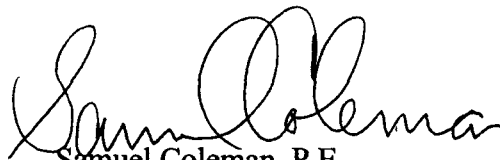


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- 3) You characterized the work plan proposal as being 97 % to 99 % of the requirements proposed by EPA. You further stated that you were confident that "we are going to get there with the remainder of requirements." EPA does not feel we can compromise any of the requirements we have presented.
- 4) Your proposal appears to rely on decision making based on the Texas Risk Reduction Rules (TRRP) and the Texas Voluntary Cleanup Program (VCP). EPA does not agree that this is an appropriate basis for conducting an appropriate investigation of an NPL site. Furthermore, neither of these state programs contemplates applicability to NPL sites. We believe that you can use appropriate state authority to manage the investigation and cleanup of a NPL site, if, and only if the methods, data quality, and end results meet or exceed those results that would be achieved if the NCP was followed.
- 5) You represented to me on June 17 that you had only recently (June 5, 2005) embraced the TRIAD approach. However, in your submittal you seem to imply that agreement on this approach was long standing.
- 6) EPA has expressed concern about the level of appropriate oversight of on-site activities during the investigation and data gathering phase. Your response on June 17 was that we would have oversight when the site is proposed for delisting. Up to that point, I remain unclear as to your proposal. My staff and I have continually advised you that any agreement that contemplates no EPA oversight during day to day activities requires a firm commitment to the strictest data quality standards. I do not feel we have this commitment.
- 7) Your commitment to public participation is minimal. We believe the public deserves a full and complete opportunity to participate and understand the decisions that may have an impact on them.

EPA remains committed to working on a mechanism that allows you to advance cleanup under appropriate state authority. However, based on the level of continued disagreement, I can't see this approach as being viable. Should you desire to continue to pursue your proposal, it is imperative that you submit an acceptable work plan. The Unilateral Administrative Order (UAO) issued on June 6, 2005, will take effect on July 15, 2005. EPA expects full compliance with the UAO after that date. I encourage you to demonstrate your stated commitment to the site cleanup with substantive actions. Should you have any questions, do not hesitate to contact me.

Sincerely yours,



Samuel Coleman, P.E.

Director

Superfund Division

cc: Bill Mahley #5299
Allen Daniels #5282